

Widening the Net of Regulation of Retail Credit Firms in Ireland

The [Consumer Protection \(Regulation of Retail Credit and Credit Servicing Firms\) Act 2022](#)¹ (the "Act") commenced on 10 May 2022. The Act expanded the definition of a 'Retail Credit Firm' ("RCF") in Part V of the Central Bank Act 1997 (the "1997 Act"). Firms carrying out certain previously unregulated activities in the retail credit space are deemed now to be RCFs and require Central Bank of Ireland ("Central Bank") authorisation.

What activities are now in scope?

The activities of an RCF now include entering into a consumer-hire agreement or hire-purchase agreement, and other forms of indirect credit such as Buy Now Pay Later ("BNPL"). These activities fall under the definition of 'relevant activity' in section 28 of the Act. It is an offence to carry out RCF activities prior to authorisation being obtained.

What regulatory requirements apply?

An RCF must abide by the Central Bank's consumer protection framework including key provisions of the Consumer Protection Code 2012, the Minimum Competency Code 2017 and the Minimum Competency Regulations 2017.

An RCF will also have to comply with the Central Bank's fitness and probity regime when applying for authorisation, and on an ongoing basis. The Code of Conduct on Mortgage Arrears, Anti-Money Laundering & Countering the Financing of Terrorism legislation, Credit Reporting Act 2013 and relevant sections of the Consumer

Credit Act 1995 will also need to be adhered to by RCFs.

Regulatory process

To apply for RCF authorisation, the following information must be submitted to the Central Bank with the application form (and supporting documentation):

- Business plan;
- Programme of operations;
- Proposed RCF activities;
- Structure and organisation of the applicant (including substance and 'mind and management' assessment);
- Fitness and probity of PCF role holders;
- Compliance plans;
- Governance and staffing arrangements;
- Outsourcing arrangements and oversight of outsourcing (where applicable);
- Financial information and solvency;
- Qualifying shareholders; and
- Regulatory background (where applicable).

Individual questionnaires can only be submitted via the Central Bank's ONR after the application has been deemed to contain all key information and documentation required.

Transitional Arrangements

The Central Bank is facilitating transitional arrangements for unregulated firms that have been carrying out activities which now fall within 'scope'. Applicants availing of these arrangements must submit the required documentation to the Central Bank no later than 16 August 2022. Those firms can continue to

¹ <https://www.oireachtas.ie/en/bills/bill/2021/91/>

provide 'relevant activities' until they receive a decision from the Central Bank.

What do firms need to do now?

Firms who operate in this area should assess whether they fall within the RCF definition and whether authorisation is required. In scope firms who wish to avail of the transitional arrangement should prepare all information and documentation required for submission prior to 16 August 2022.

New applicants should satisfy themselves that they are capable of complying with the authorisation requirements and ongoing supervisory requirements prior to submitting an application.

How can we help?

Our dedicated Financial Services Regulatory Group works closely with clients who are seeking RCF authorisation for the first time, applying to make changes to their existing license, establishing and implementing a robust compliance framework, or managing supervisory engagement.

Further information on our Irish Financial Services Regulatory Group, and the services we provide is available on our [website](#)² and in our [brochure](#)³.

For further details, please liaise with your usual Maples Group contact or:

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² <https://maples.com/en/services/specialty-services/irish-financial-services-regulatory>

³ <https://maples.com/-/media/files/pdfs/articles-and-chapters/financial-services-regulatory-group---core-services.pdf>